enforceable, there are three well defined lines of authority. (1) The amount or per cent stated is conclusive; such is a provision for liquidated damages and the holder need only aver the stipulation, the note itself being all the evidence required to support judgment for that amount. *Bank of Dallas* v. *Tuttle,* 5 New Mex. 427, 23 Pac. 241, 7 L. R. A. 445; *Bank* v. *Gay,* 114 Mo. 203, 21 S. W. 479; *Bank of Vicksburg* v. *Mayer,* 129 La. 981, 57 So. 308. (2) The amount or per cent stated is not conclusive and only a reasonable amount can be recovered. The stipulation amounts to a contract for indemnity and (a) the plaintiff must allege and prove the contract price of his attorney's fees, or in absence of a contract, a reasonable price. *Reed* v. *Taylor,* (Texas, 1910) 129 S. W. 864; *Camp, Glover & Co.* v. *Randle & Co.,* 81 Ala. 240, 2 So. 287; *Bank* v. *Wood,* 125 Tenn. 6, 140 S. W. 31; *Nat'l Bank* v. *Coleman,* 204 Fed. 24. (b) The plaintiff need not aver or prove the amount of such fees actually contracted for or paid in order to recover the amount stated in note, but the defendant in mitigation of damages may show they were less. *Kennedy* v. *Richardson,* 70 Ind. 524; *Stephenson* v. *Allison,* 123 Ala. 439, 26 So. 290; *Florence Oil Refining Co.* v. *Hiawatha Oil Co.,* 55 Colo. 378, 135 Pac. 454; *Bank* v. *Robinson,* 104 Tex. 166, 135 S. W. 372; *Utah Nat'l Bank* v. *Nelson,* 38 Utah 169, 111 Pac. 907; *Keenan* v. *Blue,* 240 Ill. 177, 88 N. E. 553. Oregon holds provisions for "reasonable attorney's fees" valid and will enforce them on proof by plaintiff (*Peyser* v. *Cole,* 11 Ore. 39, 4 Pac. 520) but refuses to allow any recovery where the stipulation is for a stated amount or per cent on the ground that such had grown into an oppressive abuse. (*Levins* v. *Briggs,* 21 Ore. 333, 28 Pac. 15). The weight of authority and better reason would seem to be with the principal case, in holding such to be an agreement to indemnify the holder. Where the stipulation is for a stated amount or per cent, and such is held conclusive of the amount recovered, regardless of the actual fees of the plaintiff, it leads to oppression of the debtor and partakes more of the nature of a penalty than of liquidated damages. *Campbell* v. *Warman,* 58 Minn. 561; *Tinsley* v. *Hoskins,* 111 N. C. 340.

BILLS AND NOTES—REQUISITES OF A QUALIFIED INDORSEMENT.—Payee wrote on back of a negotiable promissory note the words, "I transfer my right, title, and interest in same. J. M. B." *Held,* in suit on the note, that such is not a qualified indorsement and the payee is liable thereon as an ordinary indorser. *Copeland* v. *Burke,* (Okla. 1916), 158 Pac. 1162.

The words "I hereby transfer my interest in this note to ——, J. W. B." were indorsed upon the back of a promissory note. *Held,* that this was such an indorsement as to render indorser liable in a suit in the same action with the maker. *Hurt* v. *Wiley* (Ga. App. 1916), 89 S. E. 494.

It does not appear that the phraseology of the Negotiable Instruments Law as to qualified indorsements introduces any new rule on the subject. The holding of the above cases is sustained by the numerical weight of authority on the ground that in order for an indorser of a negotiable instrument to limit his personal liability thereon he must do so in words clearly expressing his intent. *Markey* v. *Corey,* 108 Mich. 184, 66 N. W. 493, 36 L. R. A. 117,

62 Am. St. Rep. 698; *Sears* v. *Lantz,* 47 Iowa 658; *Sans* v. *Woods,* 1 Iowa 262; *Maine Trust and Banking Co.* v. *Butler,* 45 Minn. 506, 48 N. W. 333, 12 L. R. A. 370. It is argued that since the mere signature of the indorser on the back of the instrument gives to the subsequent rightful holder authority to enter a full indorsement in his own name, the signature with the added words of assignment can have no less effect and that it is obvious that by merely writing out on the back of the paper just what would have been inferred by the law from the signature in blank, the indorser would incur neither greater nor less liability. See *Davidson* v. *Powell,* 114 N. C. 575, 19 S. E. 601; *Richards* v. *Frankum,* 9 Car. & P. 221; *Adams* v. *Blethen,* 66 Me. 19, 22 Am. Rep. 547; *Citizens Nat'l Bank* v. *Walton,* 96 Va. 435, 31 S. E. 890; *Marks* v. *Hermann,* 24 La. Ann. 335; *Shelby* v. *Judd,* 24 Kan. 161; *Stevens* v. *Hanan,* 86 Mich. 305; *Lehnhart* v. *Ramey,* 3 Ohio Cir. Ct. 135, 2 O. C. D. 77; *Leaky* v. *Hawarth,* 141 Fed. 850; *Duffy* v. *O'Conner,* 66 Tenn. 498; 1 DANIELS, NEGOT. INSTR. § 688c. This reasoning seems fallacious. The ordinary indorsement of a promissory note involves two express contracts: one—the sale or assignment—completely executed; the other—that of future but conditional liability —wholly executory. Having stated in express words *one* of the two implications of the ordinary general indorsement or indorsement in blank, the plain intention of the indorser would seem to be to exclude the other, and to be bound as assignor only. All the words of a written contract are to be given some force and not to be regarded as merely nugatory, and these words would seem to show that the indorser was not content with the obligations the law raises upon his bare signature. A different construction subjects him to liabilities he did not intend to undertake. *Spencer* v. *Halpern,* 62 Ark. 595, 36 L. R. A. 120; *Aniba* v. *Yeomans,* 39 Mich. 171; *Hailey* v. *Falconer,* 32 Ala. 536; *Lyons* v. *Dibilbis,* 22 Penn. 185; *Ellsworth* v. *Varney,* 83 Ill. App. 92; *Gale* v. *Mayhew,* 161 Mich. 96, 125 N. W. 781; *Briggs* v. *Latham,* 36 Kan. 205; TIEDEMAN, COM. PAPER, § 265.

CARRIERS—MISDELIVERY AND CONVERSION OF GOODS.—Defendant, a common carrier, received goods from plaintiff for transportation to B Company. With the shipment defendant delivered to B Company an "expense bill" erroneously describing one M as the consignor. Relying thereon, B Company paid M for the goods so shipped. Plaintiff sued defendant carrier, claiming conversion, and recovered judgment in District Court, which was reversed by the Supreme Court on appeal. *Cohen* v. *Mpls., St. P. & S. S. M. Ry. Co.* (Minn. 1916), 158 N. W. 334.

These facts present the converse of the usual case, to which this was likened by the trial court, of delivery by a carrier to the wrong consignee. It is a familiar principle that such misdelivery is a conversion even though it be the result of an innocent mistake, which the carrier offers to rectify. See ANN. CAS. 1915 D, 871, and note, for discussion and authorities. But the principal case is unique in the contention of plaintiff, upheld in the trial court, that, although delivery was made to the proper consignee, the carrier was guilty of a conversion in that it transported and delivered the goods shipped by plaintiff "as the goods of M," which "amounted to the same thing as a